

# MEMORANDUM

COSHAC

Agenda Item No. 2 (B)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

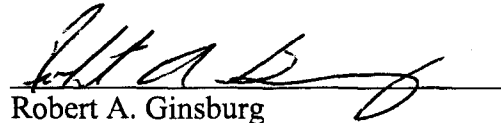
**DATE:** April 13, 2005

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Ordinance pertaining to  
election campaign financing  
trust fund; repealing Section  
12-22

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The accompanying ordinance was prepared and placed on the agenda at the request of  
Commissioner Bruno A. Barreiro.

  
Robert A. Ginsburg  
County Attorney

RAG/bw

**Date:**

# Memorandum

MIAMI-DADE  
COUNTY

**To:**

Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:**

George M. Burgess  
County Manager



**Subject:**

Ordinance relating to Election Campaign Financing Trust Fund repealing section 12-22 of the County Code

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This ordinance relating to Election Campaign Financing Trust Fund repealing section 12-22 of the Code of Miami-Dade County will have a positive fiscal impact on Miami-Dade County.

Based on historical data the County spent \$75,000 in FY 2000-01 (Commission election); \$50,000 in FY 2001-02 (Commission election). In FY 2003-04 and FY 2004-05 the County is projecting to spend \$2.575 million (Mayor and Commission elections including run-offs).


fiscal/04304



# MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez      DATE:  
and Members, Board of County Commissioners

FROM:   
Robert A. Ginsburg  
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor

Agenda Item No.

Veto \_\_\_\_\_

Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO ELECTION CAMPAIGN FINANCING TRUST FUND; REPEALING SECTION 12-22 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ESTABLISHING ELECTION CAMPAIGN FINANCING TRUST FUND; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 12-22 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:<sup>1</sup>

**Sec. 12-22. ~~[[Election campaign financing trust.]] >>Reserved.<<~~**

~~[[a) *Definitions.* The following terms, as used in this section, shall mean:~~

- ~~(1) "Contribution" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.~~
- ~~(2) "Expenditure" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.~~

~~(b) *Election Campaign Financing Trust Fund.* There is established the Election Campaign Financing Trust Fund to be utilized by the Miami-Dade County Department of Elections as provided in this section. If necessary, each year in which a general election is to be held for the election of the Mayor or any County Commissioner, additional funds shall be transferred to the Election Campaign Financing Trust Fund from general revenues in an amount sufficient to fund qualifying candidates pursuant to this section.~~

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(e) ~~Election campaign financing; eligibility.~~ Each candidate for the Office of Mayor of Miami Dade County or the Board of County Commissioners of Miami Dade County who desires to receive contributions from the Election Campaign Financing Trust Fund (the "Fund") shall file a request by the filing deadline for such contributions with the filing officer on forms provided by the Miami Dade County Supervisor of Elections. As used in this subsection, "filing deadline" shall mean the last day upon which a candidate may qualify for the elective office sought. If a candidate requesting contributions from the Fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. To be eligible to receive contributions from the Fund, a candidate shall not be an unopposed candidate and shall:

(1) Sign a statement of understanding wherein the candidate states that he or she has read, understands and agrees to abide by Section 12-22 of the Code and the applicable Administrative Order regarding the Election Campaign Financing Trust Fund.

(2) Qualify as a candidate pursuant to Chapter 99, Florida Statutes and section 2.04 of the Home Rule Charter;

(3) Limit loans or contributions from the candidate's personal funds to twenty five thousand dollars (\$25,000.00), which loans or contributions shall not qualify for meeting the threshold amounts in subsection (c)(5);

(4) Submit to audits of the campaign account by the Commission on Ethics and Public Trust as provided in subsection (f)(3); and

(5) Raise contributions as follows:

a. ~~Candidates for Board of County Commissioners.~~ Each candidate for the Board of County Commissioners shall have received by the filing deadline at least two hundred (200) separate contributions between fifteen dollars (\$15.00) and two hundred and fifty dollars (\$250.00) from two hundred (200) different registered voters residing in Miami Dade County totalling at least fifteen thousand dollars (\$15,000). Any candidate who satisfies the requirements stated in the preceding sentence shall be eligible for a contribution of fifty thousand dollars (\$50,000) as provided in subsection (f)(3). Each candidate for the Board of County Commissioners who receives by

~~the filing deadline an additional ten thousand dollars (\$10,000) in contributions between fifteen dollars (\$15.00) and two hundred and fifty dollars (\$250.00) for a total of twenty five thousand dollars (\$25,000) shall be eligible for a contribution of an additional twenty five thousand dollars (\$25,000) as provided in subsection (f)(3). These contributions must be in the form of:~~

- ~~1. A personal check;~~
- ~~2. Money order that includes the contributor's name and address;~~
- ~~3. Traveler's check that includes the contributor's name and address; or~~
- ~~4. Electronic transfer of funds where the name of the contributor is clearly stated.~~

~~b. Candidates for Mayor. Each candidate for Mayor of Miami Dade County shall have received at least one thousand (1,000) contributions between fifteen dollars (\$15.00) and two hundred fifty dollars (\$250.00) from one thousand (1,000) different registered voters residing in Miami Dade County. These contributions must be in the form of:~~

- ~~1. A personal check;~~
- ~~2. Money order that includes the contributor's name and address;~~
- ~~3. Traveler's check that includes the contributor's name and address; or~~
- ~~4. Electronic transfer of funds where the name of the contributor is clearly stated.~~

~~(d) Election campaign financing; participation in run-off; eligibility. Each candidate for the Office of Mayor of Miami Dade County or the Board of County Commissioners of Miami Dade County who is in a run-off election and did not participate in the Election Campaign Financing Trust Fund prior to the initial election as provided in subsection (c), and desires to receive contributions from the Election Campaign Financing Trust Fund during the run-off election shall file a request by the filing deadline for~~

~~such contributions with the filing officer on forms provided by the Miami Dade County Supervisor of Elections. As used in this subsection (d), "filing deadline" shall mean the third business day after the certification of the results of the initial election. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. To be eligible to receive contributions from the Fund during the run-off election, a candidate shall not be an unopposed candidate and shall:~~

- ~~(1) Sign a statement of understanding wherein the candidate states that he or she has read, understands and agrees to abide by Section 12-22 of the Code and the applicable Administrative Order regarding the Election Campaign Financing Trust Fund.~~
- ~~(2) Sign an affidavit stating that the candidate did not exceed the expenditure limits provided in section (e)(1) during the initial election;~~
- ~~(3) Limit loans or contributions from the candidate's personal funds to twenty five thousand dollars (\$25,000); and~~
- ~~(4) Submit to audits of the campaign account by the Commission on Ethics and Public Trust as provided in subsection (f)(3).~~

~~(e) *Expenditure limits.*~~

- ~~(1) Any candidate for Mayor or the Board of County Commissioners who requests contributions from the Election Campaign Financing Trust Fund shall limit his or her total expenditures during the initial election as follows:
  - ~~a. Mayor: Six hundred thousand dollars (\$600,000.00).~~
  - ~~b. Board of County Commissioners: One hundred and fifty thousand dollars (\$150,000.00).~~~~
- ~~(2) If a run-off election occurs, a candidate for Mayor may expend a total of four hundred thousand dollars (\$400,000.00), and a candidate for the Board of County Commissioners may expend a total of one hundred thousand dollars (\$100,000.00) during the run-off election.~~
- ~~(3) Expenditure limits shall be adjusted by the Supervisor of Elections quadrennially to reflect the rate of inflation or deflation as~~

indicated in the Consumer Price Index (CPI) calculated by the U.S. Department of Commerce as applied to Miami Dade County. The first adjustment shall occur in 2005 using the CPI figures provided for the calendar year ended December 31, 2004. Adjustments shall be made thereafter on a quadrennial basis using the CPI figures provided for the calendar year preceding the year of adjustment.

- (4) ~~For the purposes of this section, the term "expenditure" does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.~~
- (5) ~~Any candidate who requests contributions from the Election Campaign Financing Trust Fund and subsequently exceeds the expenditure limit set forth in this section shall, within fifteen (15) days from the date the candidate exceeds the limit, pay to the Election Campaign Financing Trust Fund an amount equal to the excess expenditures. The total amount required to be paid under this section shall not exceed the total public financing received by the candidate. Such amount shall not be an allowable campaign expense and shall be paid from personal funds of the candidate.~~

(f) *Distribution of funds.*

- (1) ~~The Supervisor of Elections shall review each request for contributions from the Election Campaign Financing Trust Fund and certify whether the candidate is eligible for such contributions. Notice of the certification decision shall be provided to the candidate.~~
- (2) ~~An adverse decision may be appealed to a hearing examiner. The Supervisor of Elections shall adopt rules providing a procedure for such appeals. Hearing examiners shall be selected from a panel of retired judges who have served ten (10) or more years as Circuit Judges in the Eleventh Judicial Circuit in and for Miami Dade County, Florida. Hearing examiners may be selected from alternate sources where the County Attorney recommends in writing that such action is necessary to achieve greater diversity. Appeals shall be filed with the Clerk of the Board and to the County Attorney within ten (10) days of the filing of the Supervisor of Election's decision. Such appeal shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a bond in the amount of five hundred dollars (\$500.00) in a form and with a surety acceptable to the Supervisor of Elections. Any grounds not stated shall be deemed waived. Such bond shall be retained by the Clerk~~



~~of the Board and shall be returned at the conclusion of the appeal proceedings unless the hearing examiner imposes costs against the appellant and such costs are not separately paid by the appellant within fourteen (14) calendar days of the hearing examiner's decision. The Clerk of the Board shall refer an appeal to a hearing examiner within three (3) business days of receipt of the notice of appeal. The hearing examiner shall hear the appeal within three (3) business days unless otherwise agreed to by the appellant. The decision of the hearing examiner shall be final unless appealed. The decision of the hearing examiner may be appealed pursuant to the Florida Rules of Appellate Procedure.~~

- (3) a. ~~Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as provided as follows:~~
1. ~~Each candidate for the Board of County Commissioners who has satisfied the requirements of subsection (c) shall be entitled to a maximum contribution of seventy five thousand dollars (\$75,000.00) from the Election Campaign Trust Fund. Any candidate who has raised between fifteen thousand dollars (\$15,000) and twenty four thousand nine hundred and ninety nine dollars (\$24,999) and has complied with all of the requirements of subsection (c) shall be entitled to a contribution of fifty thousand dollars (\$50,0000). Any candidate who has raised twenty five thousand dollars (\$25,000) or more and has complied with all of the requirements of subsection (c) shall be entitled to a contribution of seventy five thousand dollars (\$75,000), which sum shall be disbursed in two (2) installments. The first installment shall be fifty thousand dollars (\$50,000) and shall be disbursed within seven (7) days after the Supervisor of Elections has certified that the candidate is eligible for such contribution. The second installment shall be disbursed within seven (7) days after the candidate has submitted his or her 32nd day report, as required by section 106.07, Florida Statutes, and the Supervisor of Elections has determined that the candidate has submitted an additional report which contains sufficient information to allow for the audit of campaign~~

~~contributions and expenditures ("Campaign Financing Report"). Both the candidate and the candidate's treasurer shall sign each Campaign Financing Report. If a run-off election occurs, a candidate who has satisfied the requirements of subsections (c) or (d) and subsection (e) and has submitted a Campaign Financing Report which contains sufficient information to allow for the audit of campaign contributions and expenditures shall be entitled to fifty thousand dollars (\$50,000.00). Distribution of funds during a run-off election shall be made within seven (7) days after the Supervisor of Elections has certified that the candidate is eligible for such contribution. Both the candidate and the candidate's treasurer shall sign each Campaign Financing Report. Each candidate receiving contributions from the Fund shall submit to a post election audit of his or her campaign account, and shall within ninety (90) days after the election provide the Commission on Ethics and Public Trust with detailed information to substantiate all campaign contributions and expenditures, which have not been previously substantiated, including, but not limited to, all original cancelled checks, invoices, bank statements, receipts that include the name and business address of the person or entity providing the receipt and any other information required by the Commission on Ethics and Public Trust.~~

2. ~~Each candidate for the Office of Mayor who has satisfied the requirements of subsection (c) shall be entitled to a contribution of three hundred thousand dollars (\$300,000.00) from the Election Campaign Trust Fund. If a run-off election occurs, a candidate who has satisfied the requirements of subsections (c) or (d) and section (e) shall be entitled to two hundred thousand dollars (\$200,000.00). Distribution of funds shall be made within seven (7) days after the close of qualifying. For run-off elections, distribution of funds shall be within seven (7) days from the date of the initial election. Each candidate receiving contributions from the Fund shall submit to a post election audit of his or her campaign account, and shall within ninety (90) days~~

~~after the election provide the Commission on Ethics and Public Trust with detailed information to substantiate all campaign contributions and expenditures, which have not been previously substantiated, including, but not limited to, all original cancelled checks, invoices, bank statements, receipts that include the name and business address of the person or entity providing the receipt and any other information required by the Commission on Ethics and Public Trust.~~

- (4) a. ~~Certification and distribution of funds shall be based upon the eligibility criteria provided in subsections (c) and (d). The Supervisor of Elections shall review each report prior to authorizing the release of funds. The Supervisor of Elections may prescribe separate reporting forms for candidates for Mayor and the Board of County Commissioners.~~
- b. ~~A candidate who is eligible for a distribution of funds based upon qualifying contributions received and certified to the Supervisor of Elections as provided in this section, may obligate funds not to exceed the amount which the campaign treasurer's report shows the candidate is eligible to receive from the Election Campaign Financing Trust Fund without the funds actually being on deposit in the campaign account.~~
- (5) ~~The Supervisor of Elections shall adopt rules relating to, among things, reports including, but not limited to, Campaign Financing Reports, and the certification and distribution of funds required by this section. Such rules shall, at a minimum, provide for specifications for printed campaign treasurer's reports outlining the format for such reports, including size of paper, typeface, color of print, and placement of required information on the form.~~
- (6) ~~Any candidate required to dispose of surplus funds pursuant to Section 106.141, Florida Statutes, who has received contributions from the Election Campaign Financing Trust Fund shall, except as provided in this subsection, return all surplus campaign funds to the Election Campaign Financing Trust Fund. Any surplus funds in excess of the amount contributed to the candidate by the Election Campaign Financing Trust Fund shall be disposed of as provided in Section 106.141, Florida Statutes.~~

- (g) ~~*Use of Funds.*~~ Funds distributed to a candidate from the Fund shall not be used for the following expenditures: (i) clothing for a candidate or an immediate family member of the candidate, with the exception of clothing that is a political advertisement as defined in section 106.001(17), Florida Statutes; (ii) the purchase or rental of any vehicle for a candidate; (iii) the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; (iv) personal grooming or cosmetic enhancements for a candidate; (v) payment to a candidate or an immediate family member of the candidate for the purchase of any goods or services; and (vii) payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member of the candidate for the purchase of any goods or services. As used herein, "immediate family member" shall refer to the spouse, parents, children and siblings of the candidate. As used herein, "controlled by" shall mean ownership, directly or indirectly, of five (5) percent or more of the outstanding capital stock in any corporation or direct or indirect interest of five (5) percent or more in a firm, partnership, or other business entity.
- (h) ~~*Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required.*~~ Not later than qualifying for office, each candidate for the Office of Mayor or the Board of County Commissioners who has not made a request to receive contributions from the Election Campaign Financing Trust Fund, but who wishes to voluntarily abide by the applicable expenditure limit set forth in subsection (e) and the loan or contribution limits on personal funds set forth in subsection (c)(3), shall file an irrevocable statement to that effect with the Supervisor of Elections. Any candidate who files such a statement and subsequently exceeds such limits shall, within fifteen (15) days from the date the candidate exceeds the limits, pay to the Election Campaign Trust Fund an amount equal to the amount of the excess expenditures and/or the amount of the excess personal contributions or loans. Such an amount shall not be an allowable campaign expense and shall be paid from the personal funds of the candidate.
- (i) ~~*Trigger Reporting.*~~ Whenever a candidate for Mayor or the Board of County Commissioners who has elected to participate or not to participate in election campaign financing under the provisions of this section receives contributions or makes expenditures that exceed 75 percent of the applicable expenditure ceiling provided in subsection (e), the candidate shall, within 24 hours of reaching that level, file a report with the Supervisor of Elections, on forms to be provided by the Supervisor of Elections, stating that fact and any additional information required by the Supervisor of Elections. Thereafter, the candidate shall file a supplemental report with the Supervisor of Elections within 24 hours of receiving contributions or making expenditures that exceed 100 percent of the

~~applicable expenditure ceiling. All reports required by subsection (i) shall be filed on diskettes or CD-ROMs simultaneously with and in addition to an original signed report as required by section 12.17 of the Code. The Supervisor of Elections shall electronically post the reports required by subsection (i) as provided in section 12.18 of the Code.~~

- (j) ~~*Expenditure Ceilings Lifted.* Whenever a candidate for Mayor or the Board of County Commissioners who has elected to participate or not to participate in election campaign financing under the provisions of this section receives contributions or makes expenditures that exceed one hundred (100) percent of the applicable expenditure limit provided in subsection (e), all opposing candidates are, notwithstanding the provisions of subsections (c), (d), (e) or (g) or any other provision requiring adherence to such limit, released from such expenditure limit. For the purposes of this section, a contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and it is returned to the donor within seventy-two (72) hours of receipt.~~
- (k) ~~*Enforcement and Penalties.*~~
- (1) ~~*Enforcement by the Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce section 12-22 of the Code. In addition to any other penalties which may be applicable, a finding by the Ethics Commission that a person has violated subsections (c), (d), (e), (f), (g) or (i) shall subject said person to an admonition or public reprimand and/or a fine of two hundred fifty dollars (\$250.00) for the first such violation and five hundred dollars (\$500.00) for each subsequent violation.~~
- (2) ~~*Prosecution by the State Attorney in State Court.* In addition to any other penalties which may be applicable, any individual who violates subsections (c), (d), (e) or (h) shall be subject to a fine up to five thousand dollars (\$5,000.00) or imprisonment not to exceed three hundred sixty-four (364) days, or both.~~
- (3) ~~Any person who has pled guilty, pled nolo contendere, been found guilty or been convicted of a violation of subsections (c), (f), (h) or (j) as provided in subsections (k)(1) or (k)(2) shall be barred from receiving funds from the Fund for a period of eight (8) years.]]~~

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

**PASSED AND ADOPTED:**

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Susan Torres

Sponsored by Commissioner Bruno A. Barreiro and  
Commissioner Natacha Seijas

RA 6  
ST